

Federal Housing Finance Board

§ 907.15

conduct by any witness or counsel during the course of a meeting.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

§ 907.15 General provisions.

(a) *Waiver of requirements.* The Managing Director may waive any filing requirement or deadline in this subpart for good cause shown. The Managing Director shall provide prompt notice of any such waiver to the Board of Directors.

(b) *Actions of the Managing Director subject to the authority of the Board of Directors.* The Board of Directors may overrule any action by the Managing Director under this subpart.

(c) *Withdrawal.* At any time prior to the issuance by the Managing Director of a Notice of Board Consideration pursuant to § 907.12(g), an authorized representative of a Petitioner may withdraw the Petition, or an authorized representative of an Intervenor may withdraw the Request to Intervene, by filing a written request to withdraw with the Secretary to the Board. Only the Board of Directors may grant a request to withdraw after issuance by the Managing Director of a Notice of Board Consideration pursuant to § 907.12(g). Unless otherwise agreed, withdrawal of a Petition or Request to Intervene shall not foreclose a Petitioner from resubmitting a Petition, or an Intervenor from submitting a Request to Intervene, on the same or similar issues.

(d) *Settlement agreement.* (1) At any time during the course of proceedings pursuant to this subpart, the Finance Board shall give Petitioners and Intervenor the opportunity to submit offers of settlement when the nature of the proceedings and the public interest permit. With the approval of the Managing Director, an authorized representative of a Petitioner or Intervenor may enter into a proposed settlement agreement with the Finance Board disposing of some or all of the issues presented in a Petition or Request to Intervene.

(2) No proposed settlement agreement shall be final until approved by the Board of Directors. The Board of Directors shall consider any proposed settlement agreement within 30 calendar days of receiving a notice of the

proposed settlement agreement. If the Board of Directors disapproves or fails to approve a proposed settlement agreement within 30 days, the proposed settlement agreement shall be null and void and the previously filed Petition or Request to Intervene shall be considered in accordance with this subpart.

(3) A settlement agreement approved by the Board of Directors shall be deemed final and binding on all parties to the agreement. At the time a proposed settlement agreement becomes final, a Petition or Request to Intervene previously filed by a party to the agreement shall be deemed withdrawn as to all issues resolved in the agreement, and the parties to the agreement shall be estopped from raising objection to those issues or to the terms of the settlement agreement.

(e) *No rights created; Finance Board not prohibited.* Nothing in this subpart shall be deemed to create any substantive or discovery right in any party. Nothing in this subpart shall limit in any manner the right of the Finance Board to conduct any examination or inspection of any Bank or the Office of Finance, or to take any action with respect to a Bank or the Office of Finance, or its directors, officers, employees or agents, otherwise authorized by law.

(f) *Exhaustion requirement.* When seeking a Case-by-Case Determination of any matter or review by the Board of Directors of any Supervisory Determination, a Bank or the Office of Finance shall follow the procedures in this subpart as a prerequisite to seeking judicial review. Failure to do so shall be deemed to be a failure to exhaust all available administrative remedies.

(g) *Improper conduct prohibited.* No party shall, by act or omission, unduly burden or frustrate the efforts of the Board of Directors to carry out its duties under the laws and regulations of the Finance Board. A Petitioner or Intervenor shall confine its communications with the Board of Directors, or any individual member thereof, concerning issues raised in a pending Petition, to written communications for inclusion in the record of the proceeding, filed with the Secretary to the Board.

§ 907.16

(h) *Costs.* Petitioners are encouraged to contain costs associated with the preparation and filing of Petitions and related personal appearances, if any, at any meeting held by the Board of Directors under this subpart. The Petitioner shall be solely responsible for all costs associated with any such Petitions and appearances.

(i) *Procedures are exclusive.* All Case-by-Case Determinations by the Board of Directors and all Reviews of Disputed Supervisory Determinations shall be considered exclusively pursuant to the procedures described in this subpart.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

§ 907.16 Rules of practice.

In connection with any matter initiated or pending pursuant to this part, petitioners, requestors or intervenors, or their representatives, shall be subject to the provisions of subpart F of 12 CFR part 908. No other provision of part 908 shall apply under this part

[67 FR 9903, Mar. 5, 2002]

PART 908—RULES OF PRACTICE AND PROCEDURE IN HEARINGS ON THE RECORD

Subpart A—Introduction

Sec.

- 908.1 Scope.
- 908.2 Definitions.
- 908.3 Rules of construction.

Subpart B—Scope and Authority—Enforcement Proceedings

- 908.4 Cease and desist proceedings.
- 908.5 Temporary cease and desist orders.
- 908.6 Civil money penalties.
- 908.7 Service of notice.
- 908.8 Subpoenas.
- 908.9 Hearings on the record.
- 908.10 Judicial review.
- 908.11 Jurisdiction and enforcement.
- 908.12 Notice after separation.
- 908.13 Public disclosure of final orders.
- 908.14 No implied private right of action.
- 908.15–908.19 [Reserved]

Subpart C—General Rules

- 908.20 Authority of the Board of Directors.
- 908.21 Authority of the presiding officer.
- 908.22 Public hearings.
- 908.23 Good faith certification.

12 CFR Ch. IX (1–1–05 Edition)

- 908.24 Ex parte communications.
- 908.25 Filing of papers.
- 908.26 Service of papers.
- 908.27 Computing time.
- 908.28 Change of time limits.
- 908.29 Witness fees and expenses.
- 908.30 Settlement or other dispute resolution.
- 908.31 Right to supervise the Banks.
- 908.32 Collateral attacks on proceedings under this part.
- 908.33–908.39 [Reserved]

Subpart D—Pre-Hearing Proceedings

- 908.40 Commencement of proceeding and contents of notices.
- 908.41 Answer.
- 908.42 Amended pleadings.
- 908.43 Failure to appear.
- 908.44 Consolidation and severance of actions.
- 908.45 Motions.
- 908.46 Discovery.
- 908.47 Request for document discovery from parties.
- 908.48 Document subpoenas to nonparties.
- 908.49 Deposition of witness unavailable for hearing.
- 908.50 Interlocutory review.
- 908.51 Summary disposition.
- 908.52 Partial summary disposition.
- 908.53 Scheduling and prehearing conferences.
- 908.54 Pre-hearing submissions.
- 908.55 Hearing subpoenas.
- 908.56–908.59 [Reserved]

Subpart E—Hearing and Post-hearing Proceedings

- 908.60 Conduct of hearings.
- 908.61 Evidence.
- 908.62 Post-hearing filings.
- 908.63 Recommended decision and filing of record.
- 908.64 Exceptions to recommended decision.
- 908.65 Review by Board of Directors.
- 908.66 Exhaustion of administrative remedies.
- 908.67 Stay of final decision and order pending judicial review.
- 908.68–908.69 [Reserved]

Subpart F—Rules of Practice Before the Finance Board

- 908.70 Scope.
- 908.71 Practice before the Finance Board.
- 908.72 Appearances and practice in proceedings before the Finance Board.
- 908.73 Conflicts of interest.
- 908.74 Sanctions.
- 908.75 Censure, suspension, disbarment and reinstatement.